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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,283	03/27/2001	Manuel J. Alvarez II	5143-01704	2309

7590 03/18/2004

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EXAMINER
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ELAMIN, ABDELMONIEM I

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/818,283

Applicant(s)

ALVAREZ ET AL.

Examiner

A I Elamin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-305 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-305 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-305 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-186 of U.S. Patent No. 6,208,273. Although the conflicting claims are not identical, they are not patentably distinct from each other because they recite means or steps that are substantially the same and that would have been obvious to one of ordinary skill in the art.

3. Claims 1,15, 55 63, 234,246, 252 and 270 essentially repeat all the features listed in claim 82 and 98 of U.S. Patent No. 6,208,273 with the exception of the recitation through out the claims (1,15, 55 63, 234,246, 252 and 270 of the instant application) of "a DRAM" in stead of "a memory module" in claims 82 and 98 of U.S. Patent No. 6,208,273.

4. Claims 11, 23, 25, 33, 264, 279, 282, 290 and 298 essentially repeat all the features listed in claim 1, 25, 27, 35,140 and 169 of U.S. Patent No. 6,208,273 with the exception of the

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recitation through out the claims (*11, 23, 25, 33, 264, 279, 282, 290 and 298 of the instant application*) of “a processor”.

However the, both the concept and the advantages of having a processor is old and well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a processor, because the mode of operation may be flexibly changed under software control.

5. Claims *35 and 43* essentially repeat all the features listed in claims *50 and 66* of U.S. Patent No. 6,208,273 with the exception of the recitation through out the claims (*11, 23, 25, 33, 264, 279, 282, 290 and 298 of the instant application*) of “a cache controller” in stead of “a memory controller” in claims *50 and 66* of U.S. Patent No. 6,208,273.

6. Claims *45, 53, 65, 73, 81, 89, 97, 105, 113, 121, 129, 137, 145, 147, 155, 157, 165, 167, 175, 177, 186, 196, 198, 206, 214, 222, 224 and 232* essentially repeat all the features listed in claim *50, 66, 98, 114, and 127* of U.S. Patent No. 6,208,273 with the exception of the recitation through out the claims (*45, 53, 65, 73, 81, 89, 97, 105, 113, 121, 129, 137, 145, 147, 155, 157, 165, 167, 175, 177, 186, 196, 198, 206, 214, 222, 224 and 232 of the instant application*) of “a bus bridge, an intelligent device, multiplexer, demultiplexer, NIC card, a network hub or a cable modem, ...”.

However, Examiner asserts that bus bridges, intelligent devices, multiplexers, demultiplexers, NIC cards, network hubs, cable modems, are well known in the art. These types of limitations are considered field of use, and are not patentably distinct.

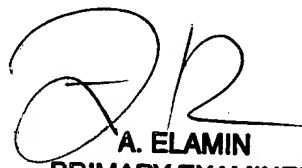
### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to A I Elamin whose telephone number is (703)305-3804. The examiner can normally be reached on MON-FRI 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**A. ELAMIN**  
**PRIMARY EXAMINER**

A I Elamin  
Primary Examiner  
Art Unit 2182

March 17, 2004